

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.14606 of 2007

Dated:10.07.2007

Between:

Banavath Ademma, W/o.Narsimha.

...Petitioner

and

The Election Officer, M.P.Banjar, Grampanchayat,
Burgampahad Mandal, Khammam District, and others.

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.14606 of 2007

ORDER:

This Writ Petition is filed against the order dated 30.06.2007 passed by the Agency Divisional Officer – cum – Election Tribunal, Paloncha, insofar as the same declined to declare the petitioner herein as elected Sarpanch of Morampalli Banjar Gram Panchayat in Burgampahad Mandal, Khammam District.

The brief fact of the matter shows that the petitioner, one Tejavath Sakkubai (not a party to the Writ Petition) and seven others contested the election for the Office of Sarpanch of the Village held on 18.08.2006. Tejavath Sakkubai was declared elected with 1924 votes. The petitioner moved Election Petition, being R.C.No.D/1896/2006, before the Agency Divisional Officer, which is duly constituted Election Tribunal as per Rule 2(2) of the Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 (for short 'the Rules'). In the said Election Petition, the petitioner alleged that Tejavath Sakkubai incurred disqualification under Section 19(3) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'), as she was having more than two children and the fourth child was born on 02.10.1997 after coming into force of the Act. This was opposed. After considering the rival contentions, the Agency Divisional Officer set aside the election of Tejavath Sakkubai, but did not find any reason to declare the petitioner as Sarpanch. This is assailed in the Writ Petition.

Learned Counsel for the petitioner submits that the petitioner challenged the election of Tejavath Sakkubai and none of the other candidates sought a declaration in their favour, and therefore, Election Tribunal committed an error in not granting the relief.

The submission cannot be accepted. Election Petition filed by the

petitioner suffered from fundamental flaw. Under Rule 4(ii) of the Rules if the petitioner seeks a declaration that she herself had been duly elected, she ought to have joined all the nominated candidates as respondents to the Election Petition. This was not done. Therefore, this Court does not find any infirmity in the order passed by the Election Tribunal.

The Writ Petition is, therefore, dismissed. No costs.

(V.V.S.RAO, J)

10.07.2007

vs